U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DOROTHY J. FEDIE and U.S. POSTAL SERVICE,
POST OFFICE, St. Paul, MN

Docket No. 03-1399; Submitted on the Record;
Issued August 5, 2003

DECISION and ORDER

Before ALEC J. KOROMILAS, DAVID S. GERSON,
WILLIE T.C. THOMAS

The issue is whether appellant established that she sustained an injury in the performance of duty on June 6, 2002, as alleged.

On January 31, 2003 appellant, then a 55-year-old postal clerk, filed a notice of traumatic injury and claim for compensation (Form CA-1) alleging that on June 6, 2002 she fractured her left foot when the elevator she was in fell three floors. The employing establishment controverted the claim.

In support of her claim, appellant submitted a medical report by Dr. Michael Bourne, a podiatrist, dated December 20, 2002, wherein he indicated that appellant sustained a metatarsal base fracture. With regard to whether the elevator incident could have caused this fracture, Dr. Bourne indicated, "I cannot confidently necessarily link the two although I do not feel it would be a stretch that she possibly created a cortical crack at the time of the elevator injury and that her subsequent activities then produced the fracture."

By letter dated February 28, 2003, the Office of Workers' Compensation Programs requested that appellant submit further information in support of her claim. By letter dated March 11, 2003, appellant responded to the Office's questions by noting that the only possible incident that related to the type of injury she sustained was when the elevator fell three floors on June 6, 2002, as she had no prior problems with her foot. She noted that she had x-rays when she visited the emergency room on June 16, 2002, and again on June 27, 2002, but that no fracture was noted at that time. She indicated that the bone scan on December 4, 2002 was the first time she had an indication that she fractured her left foot.

Appellant also submitted two additional reports by Dr. Bourne. In a January 28, 2003 report, Dr. Bourne indicated that he originally saw appellant on July 11, 2002 for severe left foot pain, and that at that time he diagnosed degenerative joint disease of the naviculocuneiform joint. He noted that by the end of November he diagnosed her with second metatarsal base stress fracture. He indicated that there had been some discussion as to whether the elevator injury may

have precipitated this metatarsal fracture, and that he could not equivocally say either way if this was true. In a March 15, 2003 medical report, Dr. Bourne stated:

> "In a vast majority of the problems I take care of in my medical practice, there is always speculation regarding the onset of a condition. A vast majority of musculoskeletal complaints can be insidious in onset. The fact of the matter is, there was a delay in the diagnosis of [appellant's] injury. This was based on the fact that conventional x-rays were not able to determine the fracture site. Delay occurred until it could be delineated. Her stress fracture is certainly of a significantly abnormal location to suggest that normal walking and standing generally does not create this type of fracture pattern. This type of fracture is generally seen from more high impact type of injuries, *i.e.*, high speed injuries involving motor vehicles, snowmobiles and falls.
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> "Because the only type of incident that occurred involved the elevator that was proximal to the onset of her problem, I have surmised the elevated injury may have been the incident that may have created this injury, but I have no conclusive way of proving this. As I have stated, a good proportion of my practice is based on speculating what creates people's pain and disability and I feel in my particular specialty that this is the norm, not the exception."

By decision dated March 28, 2003, the Office denied appellant's claim because it had not been established that the claimed medical condition was related to the established work-related event.

The Board finds that the evidence of record fails to support that appellant sustained an injury in the performance of duty on June 6, 2002, as alleged.

An employee seeking benefits under the Federal Employees' Compensation Act[1] has the burden of establishing the essential elements of his or her claim, including the fact that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.[2] The medical evidence required to establish a causal relationship, generally, is rationalized medical opinion evidence.[3]

Rationalized medical opinion evidence is medical evidence, which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors

[1] 5 U.S.C. §§ 8101-8193.

[2] *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

[3] *Id.*

identified by the claimant.[4] The mere fact that a condition manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two. Neither the fact that the condition became apparent during a period of employment, nor the belief of appellant that the condition was caused by or aggravated by employment conditions is sufficient to establish causal relation.[5]

In the instant case, Dr. Bourne's opinion as to the relationship of appellant's second metatarsal base stress fracture and the June 6, 2002 incident with the elevator is speculative. Dr. Bourne noted in his report dated March 15, 2003 that "the elevated injury may have been the incident that may have created this injury, but I have no conclusive way of proving this." He also noted in his December 20, 2002 opinion that he could not conclusively link the elevator injury to the fracture. Accordingly, Dr. Bourne's opinion is speculative and insufficient to meet appellant's burden of proof.[6]

The decision of the Office of Workers' Compensation Programs dated March 28, 2003 is hereby affirmed.

Dated, Washington, DC
August 5, 2003

Alec J. Koromilas
Chairman

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

[4] *See Victor J. Woodhams*, 41 ECAB 345 (1989); *William E. Enright*, 31 ECAB 426, 430 (1980).

[5] *Manuel Garcia*, 37 ECAB 767, 773 (1986); *Juanita C. Rogers*, 34 ECAB 544, 546 (1983).

[6] *See Jennifer Beville*, 33 ECAB 1970 (1982) (finding that a physician's opinion that the employee's complaints "could have been" related to her work injury was speculative and of limited probative value). It is not necessary that the evidence be so conclusive as to suggest causal connection beyond all possible doubt in the mind of a medical scientist. The evidence required is only that necessary to convince the adjudicator that the conclusion drawn is rational, sound and logical. *Kenneth J. Deerman*, 34 ECAB 641, 645 (1983) and cases cited therein at note 1.